

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SYSMEX CORPORATION and SYSMEX)	
AMERICA, INC.)	C. A. No.: 19-1642-RGA-CJB
)	
Plaintiffs,)	JURY TRIAL DEMANDED
)	
v.)	
)	
BECKMAN COULTER, INC.,)	
)	
Defendant.)	

**DEFENDANT BECKMAN COULTER, INC.’S
NOTICE OF WITHDRAWAL OF D.I. 416–420 IN FAVOR
OF EXCERPTS AT D.I. 442–443 RELIED ON IN BRIEFING**

Defendant Beckman Coulter, Inc. (“BCI”) respectfully submits this notice of withdrawal of the full-length exhibits it filed at D.I. 416–420 in favor of excerpted versions of those exhibits at D.I. 442–443 which contain all pages of those exhibits cited by either party in now-completed summary judgment and *Daubert* briefing.

WHEREAS, on November 30, 2021, BCI filed at D.I. 416–420 the “Declaration of Wallace H. Feng in Support of Beckman Coulter, Inc.’s Opening Briefs in Support of Its Motion for Summary Judgment of Non-Infringement and Invalidity and Its *Daubert* Motion to Exclude the Opinions of Plaintiffs’ Expert David Haas,” which attached Exhibit Nos. 1–44, each in full and not excerpted, as Exhibit Volumes 1–5;

WHEREAS, on December 7, 2021, BCI advised Sysmex by email of BCI’s intent to file and serve replacement versions of its Exhibit Volumes 1–5, originally filed at D.I. 416–420, excerpted to remove uncited pages, which BCI explained it intended to do in order to be helpful for counsel and the Court;

WHEREAS, also on December 7, 2021, the parties entered into a Stipulation (ordered by the Court on December 8, 2021), which extended the proposed deadline for filing “any excerpted

versions” of pleadings filed in support of briefing, along with the deadline for filing redacted versions, to January 25, 2022. (D.I. 422);¹

WHEREAS, BCI provided Sysmex with excerpted versions of the exhibits for review early on January 22, 2022, in advance of the January 25, 2022 deadline for filing redactions;

WHEREAS, the excerpted versions of the exhibits include every page cited by either BCI or Plaintiffs in their summary judgment and *Daubert* briefs, as well as surrounding pages for context, without extraneous pages not cited or referenced in either party’s briefs;

WHEREAS, the excerpted versions of the exhibits will align the docket with those portions of the exhibits that the parties relied on for their briefing and will significantly reduce the volume of the pleadings, thereby making a more precise record and allowing for increased efficiency for both counsel and the Court in advance of oral argument on the pending motions now scheduled for February 25, 2022;

WHEREAS, BCI has timely filed a public redacted version of the excerpted exhibits (filed at D.I. 444–445), such that the withdrawal of the original full-length versions will streamline the record and docket by removing those portions of the exhibits not cited by either party in briefing;

NOW THEREFORE, BCI hereby provides this notice of withdrawal from the docket of Exhibit Nos. 1–44 filed under seal at D.I. 416–420, in favor of excerpted versions of those exhibits limited to the material relied on by either party in briefing, filed at D.I. 442–443.

¹ On January 24, 2022, Sysmex notified BCI for the first time that it now objects to BCI filing the redacted excerpted version of exhibits that the parties stipulated to and the Court ordered. Sysmex cited no authority supporting its objection. BCI has been unable to locate authority governing withdrawal of pleadings where more precise versions are filed.

If and to the extent withdrawal of D.I. 416–420 is not fully effectuated by this notice and it remains necessary to file a public redacted version of those parts of the foregoing exhibits not relied on in any briefing, BCI respectfully requests that any obligation to file a public redacted version of D.I. 416–420 be temporarily suspended until further order of Court.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Melanie K. Sharp

Melanie K. Sharp (No. 2501)
James L. Higgins (No. 5021)
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
msharp@ycst.com
jhiggins@ycst.com

LEYDIG, VOIT & MAYER, LTD
David M. Airan
Wesley O. Mueller
Aaron R. Feigelson
Nicole E. Kopinski
Wallace H. Feng
Two Prudential Plaza
180 N. Stetson Ave., Suite 4900
Chicago, IL 60601-6745
(312) 616-5600

Dated: January 25, 2022

Attorneys for Beckman Coulter, Inc.

CERTIFICATE OF SERVICE

I, Melanie K. Sharp, Esquire, hereby certify that on January 25, 2022, I caused a copy of Defendant Beckman Coulter, Inc.'s Notice of Withdrawal of D.I. 416–420 In Favor of Excerpts at D.I. 442–443 Relied on in Briefing to be served on the following counsel of record in the manner indicated below:

BY E-MAIL

Kelly E. Farnan
Renée Mosley Delcollo
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
farnan@rlf.com
delcollo@rlf.com

James R. Sobieraj
Robert S. Mallin
Joshua James
Crowell & Moring LLP
455 N. Cityfront Plaza Drive
Suite 3600
Chicago, IL 60611
jsobieraj@crowell.com
rmallin@crowell.com
jjames@crowell.com

Alexis White
1001 Pennsylvania Avenue NW
Washington, DC 20004-2595
awhite@crowell.com

/s/ Melanie K. Sharp
Melanie K. Sharp (No. 2501)